



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

59

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,597	04/05/2001	Garland R. Bullock	027448.0009	5682
22202	7590	05/13/2005	EXAMINER	
WHYTE HIRSCHBOECK DUDEK S C			PYZOSHA, MICHAEL J	
555 EAST WELLS STREET			ART UNIT	
SUITE 1900			PAPER NUMBER	
MILWAUKEE, WI 53202			2137	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/828,597

Applicant(s)

BULLOCK ET AL.

Examiner

Michael Pyzocha

Art Unit

2137

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-32 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____

Art Unit: 2137

DETAILED ACTION

1. Claims 1-32 are pending.
2. Amendment filed 05/03/2005 has been received and considered.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-2, 4, 7-13, 17-18, 20, 23-29 are rejected under 35 U.S.C. 102(e) as being anticipated by Gressel (U.S. 6,311,272).

As per claims 1 and 17, Gressel discloses a method and computer readable medium for replacing an applicant's existing master template with a replacement master template in a biometric verification system that stores an existing master template for each biometric sample for said applicant, said method comprising steps of: receiving a live image of a biometric sample from said applicant; generating a live template

Art Unit: 2137

from said live image; generating a compatibility template from said live image if said live template fails to correspond to said existing master template according to predefined criteria; generating said replacement master template from said live image if said compatibility template corresponds to said existing master template according to predefined criteria; and storing said replacement master template (see column 5 lines 9-30).

As per claims 2 and 18, Gressel discloses the compatibility template is compatible with the existing master template (see column 5 lines 9-30).

As per claims 4 and 20, Gressel discloses the system stores multiple master templates for each biometric sample for the applicant (see column 5 lines 13-17).

As per claims 7-13, 23-29, Gressel discloses the biometric sample being a fingerprint, voiceprint, handprint, hand writing, hand geometry, facial geometry, and facial recognition (see column 6 lines 29-38).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 2137

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 3, 5-6, 19, 21-22 are rejected under 35

U.S.C. 103(a) as being unpatentable over Gressel as applied to claims 1 and 17 above, and further in view of Hoffman et al (U.S. 5,613,012).

As per claims 3, 5, 19 and 21, Gressel fails to disclose the system stores enrollment data and identification data comprising primary identification data, secondary identification data, if any, and financial account data, if any, for said applicant (for claims 5 and 21 Gressel discloses saving multiple copies as described in claims 4 and 20).

However, Hoffman et al teaches the system stores enrollment data and identification data comprising primary identification data, secondary identification data, if any, and financial account data, if any, for said applicant (see column 49 lines 52-63 where the address etc are the enrollment data).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to save the personal and enrollment data from Hoffman et al with the biometric data of Gressel.

Art Unit: 2137

Motivation to do so would have been to provide a safer and more convenient way to identify someone (see Hoffman et al column 50 lines 45-47).

As per claims 6 and 22, the modified Gressel and Hoffman et al system discloses the method occurs when the applicant access the system (see Hoffman et al column 49 lines 52-63).

7. Claims 7-15 and 23-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gressel as applied to claims 1 and 17 above, and further in view of Association for Biometrics (AfB) and International Computer Security Association (ICSA) "1998 Glossary of Biometric Terms" (webpage) hereinafter AfB.

As per claims 14 and 30, Gressel fails to disclose the biometric sample being a retinal scan.

However, AfB discloses a retinal scan as a biometric (see Part III).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use AfB's retinal scan as a biometric sample in Gressel's system.

Motivation to do so would have been to analyze the blood vessels situated at the back of the eye (see AfB Part III).

As per claims 7-13, 15, 23-29, 31, the modified Gressel and AfB system discloses the biometric sample being a fingerprint, voiceprint, handprint, hand writing, hand geometry, facial

Art Unit: 2137

geometry, facial recognition, and an iris scan (see AfB Part III).

8. Claims 16 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gressel as applied to claims 1 and 17 above, and further in view of Houvener (U.S. 6,424,249).

As per claims 16 and 32, Gressel fails to disclose the biometric sample being thermal imaging.

However, Houvener discloses a thermal imaging biometric sample (see column 1 lines 15-30).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to use Houvener's biometric sample in Gressel's system.

Motivation to do so would have been for user authentication (see Houvener column 1 lines 15-30).

Response to Arguments

9. Applicant's arguments filed 05/03/2005 have been fully considered but they are not persuasive. Applicant argues: Gressel is directed towards changing biometric characteristics and not towards changing software as in Applicant's invention; Gressel's three templates do not correspond to Applicant's four templates; Gressel fails to disclose generating a live template or a compatibility template from the live image; Gressel fails

Art Unit: 2137

to disclose creating a compatibility and replacement master template according to a predefined criteria; Gressel's modified template is not created from the fresh sample; and the modifications made to Gressel fail to cure the above deficiencies.

Regarding Applicant's argument that Gressel is directed towards changing biometric characteristics and not towards changing software as in Applicant's invention, the claims do not reflect this difference and although Examiner read the claims in view of the specification, the broadest reasonable interpretation to the claims was given.

Regarding Applicant's argument that Gressel's three templates do not correspond to Applicant's four templates, Gressel's fresh sample template corresponds to both the live template and the compatibility template of Applicant's invention.

Regarding Applicant's argument that Gressel fails to disclose generating a live template or a compatibility template from the live image, again these two templates correspond to Gressel's fresh sample, which is shown to be a template on lines 25-27 of column 5 (where the B vector is the template).

Regarding Applicant's argument that Gressel fails to disclose creating a compatibility and replacement master

Art Unit: 2137

template according to predefined criteria, both of these templates are only made if the fresh sample is within a certain threshold of the reference (or master) template.

Regarding Applicant's argument that Gressel's modified template is not created from the fresh sample, Gressel's modified template is created from the reference template and the sampled template, which is generated from the live sample and therefore the modified template is generated from the live sample.

Applicant's arguments, that the modifications made to Gressel fail to cure the above deficiencies, are moot in view of the above responses.

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will

Art Unit: 2137

expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Pyzocha whose telephone number is (571) 272-3875. The examiner can normally be reached on 7:00am - 4:30pm first Fridays of the bi-week off.

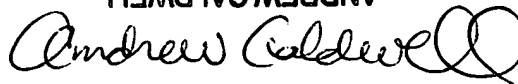
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Caldwell can be reached on (571) 272-3868. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2137

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJP

SUPERVISORY PATENT EXAMINER
ANDREW CALDWELL

A handwritten signature in black ink, appearing to read "Andrew Caldwell", followed by a large, stylized circular flourish.

ANDREW CALDWELL
SUPERVISORY PATENT EXAMINER